

# Appendix A. Consultation and Coordination

A planning team (see table A-1) composed of representatives from the six managing stations, various other Service Divisions, and a representative from NDGF was formed to prepare this CCP and EA. Initially, the team focused on identifying the issues and concerns

pertinent to the management of the Program. The team met on several occasions and participated in public scoping activities throughout the state. During this period, the team also sought the contributions of experts (table A-2) from various fields of expertise.

**Table A-1. Planning team members**

<i>Name</i>	<i>Title</i>	<i>Agency</i>
Laura King	Planning Team Leader, Refuge Operations Specialist	U.S. Fish and Wildlife Service
Randy Kreil	Division Chief, Wildlife Division	North Dakota Game and Fish Department
Rod Krey	Refuge Supervisor, ND/SD	U.S. Fish and Wildlife Service
Bob Barrett	Deputy Refuge Supervisor, ND/SD	U.S. Fish and Wildlife Service
Sean Fields	Wildlife Biologist/GIS Specialist	U.S. Fish and Wildlife Service
Lloyd Jones	Refuge Coordinator, North Dakota	U.S. Fish and Wildlife Service
Ron Reynolds	Project Leader, Region 6 HAPET Office	U.S. Fish and Wildlife Service
Stu Wacker	Supervisory Realty Specialist	U.S. Fish and Wildlife Service
Roger Hollevoet	Project Leader, Devils Lake	U.S. Fish and Wildlife Service
Kim Hanson	Project Leader, Arrowwood	U.S. Fish and Wildlife Service
Bob Vanden Berge	Project Leader (retired 1/05), Kulm	U.S. Fish and Wildlife Service
Bob Howard	Project Leader (retired 6/04), J. Clark Salyer	U.S. Fish and Wildlife Service
Tedd Gutzke	Project Leader, J. Clark Salyer	U.S. Fish and Wildlife Service
Mike McEnroe	Project Leader (retired 1/05), Audubon	U.S. Fish and Wildlife Service
Paul Van Ningen	Project Leader, Long Lake	U.S. Fish and Wildlife Service
Lee Albright	Wetland District Manager, J. Clark Salyer	U.S. Fish and Wildlife Service
Dave Azure	Deputy Project Leader, Kulm	U.S. Fish and Wildlife Service
Gary Williams	Deputy Project Leader, Audubon	U.S. Fish and Wildlife Service
Natoma (Tomi) Buskness	Deputy Project Leader, Long Lake	U.S. Fish and Wildlife Service
Jim Alfonso	Deputy Project Leader, Devils Lake	U.S. Fish and Wildlife Service
Mark Vaniman	Deputy Project Leader (transferred 2/04), Arrowwood	U.S. Fish and Wildlife Service
Stacy Adolf-Whipp	Wetland District Manager, Arrowwood	U.S. Fish and Wildlife Service
Stacy Hoehn	Refuge Operations Specialist, Valley City	U.S. Fish and Wildlife Service
Kory Richardson	Wetland District Manager, Valley City	U.S. Fish and Wildlife Service
Mike Goos	Wetland District Manager, Audubon	U.S. Fish and Wildlife Service
Michael (Mick) Erickson	Wetland District Manager, Arrowwood	U.S. Fish and Wildlife Service
Paul Halko	Wetland District Manager, Devils Lake	U.S. Fish and Wildlife Service
Neil Shook	Wetland District Manager, Devils Lake	U.S. Fish and Wildlife Service
Kurt Tompkins	Wetland District Manager, Devils Lake	U.S. Fish and Wildlife Service

**Table A-2. Other contributors to the Limited-interest National Wildlife Refuges CCP and their area(s) of expertise**

<i>Name</i>	<i>Title</i>	<i>Area of Expertise</i>
Ron Shupe	Deputy Chief of Refuges	Limited-interest refuge history
Harvey Wittmier	Realty Chief	Limited-interest refuge history, realty policies and procedures
Michael Spratt	Planning Division Chief	Planning processes and techniques
Linda Kelly	Chief, Comprehensive Conservation Planning	Planning processes and techniques
Bill Reffault	President, Blue Goose Alliance	Limited-interest refuge history
Margo Zalen	Regional Solicitor, Denver	Legal guidance and opinion
Alan Palisoul	WO Solicitor	Legal guidance and opinion
Betty Adler	Supv. Realty Specialist	Realty history of limited-interest refuges and procedures
James Eaglesome	Paralegal Specialist (Realty)	Legal guidance and opinion
Cheryl Willis	Water Resources Division Chief	Water resources information; water rights
Sandy Hutchcroft	Supv. Information Technology Specialist	Realty database
David Redhorse	Native American Liaison	Native American interests
Jane Fitzgerald	Reference Archivist, Old Military and Civil Records	Historical records related to limited-interest refuges
John Esperance	Chief, Land Protection Planning	Land protection planning guidance
Joyce Welch	GIS Contractor	Limited-interest refuge history and mapping
Rhoda Lewis	Regional Archaeologist	Cultural and archeological resources guidance
Sue Kvas	GIS Specialist, HAPET	GIS and related habitat data, HAPET
Sean Furniss	Refuge Roads Coordinator	Refuge purposes
Deb Parker	Editor, Planning	Editing
Aleta Powers	Natural Resource Specialist	Editing (Contractor)
Connie Young-Dubovsky	Regional NEPA Coordinator	NEPA compliance
Eva Paredes	Facility Management Coordinator	Real property inventory

**Public Review of the Draft CCP/EA**

The public was given a 60-day period to review the public draft plan. The review period ended December 2, 2005. During the month of October 2005, newsletters summarizing the draft plan and comment forms were sent to over 730 individuals on the mailing list. In addition, over 100 copies of the plan were sent to interested

parties. A total of 6 public meetings were held to give the public an opportunity to discuss the public draft of the CCP. These meetings were held in October in the communities of Valley City, McHenry, Devils Lake, Upham, Oakes, and Moffitt, N.D. A presentation was given at each meeting summarizing the draft plan and comments were collected. We had a total of 19

attendees. More than 20 news releases and articles were prepared regarding the draft plan and these public meetings.

The following issues, concerns, and comments are a compilation and summary of those expressed during the draft CCP comment period. Comments were provided by the public, other Federal and State agencies, and individuals concerned about the natural resources of these refuges. The section is organized by topics and presents both the comment and the Service's response. Only those substantive comments that are relative to this planning effort and within the jurisdiction of the Service are addressed and considered.

### Public Comments

The refuge staff recognizes and appreciates all input received from the public throughout the planning process. In particular, the feedback, comments, and renewed interactions with the landowners of these refuges has been essential to this planning process. All comments were reviewed by the planning team. In many cases we received similar comments or questions from multiple persons or organizations. These comments have been combined and paraphrased. The following summarizes all substantive comments followed by the Service's response.

### Divestiture

Comment 1—The Service should retain all refuges proposed for divestiture and develop agreements with the state and acquire the uplands from the landowners.

*Response:* Prior to divestiture, the Service will work closely with both the state and landowners to ensure there is not net loss of wildlife habitat (if any) that currently exists on these refuges. The state currently manages three of these refuges as Wildlife Management Areas (WMA) and owns all or most of the lands within two of these refuges. The Service is there in name only. The third refuge was acquired by the Bureau of Reclamation who has an agreement with the state to manage it as a WMA. The remaining three refuges either never had or have lost their wildlife values to the point that they no longer support the goals of the National Wildlife Refuge System. The Service made these determinations based on discussions amongst managers, biologists, and the directorate. The resulting divestiture model used as a tool to examine each refuge in

this project for divestiture has been added in appendix G. By divesting these refuges, any future funding will then be used to enhance and protect those lands and waters that can truly function as refuges as described in the National Wildlife Refuge System Improvement Act.

Comment 2—Concerned about the lack of procedure to consider proposed divestment of refuge lands.

*Response:* An appendix has been added to the document describing the divestiture decision model developed by the Region and used as part of the process to determine which refuges should be considered for divestiture.

Comment 3—The Service should have taken a more aggressive look at the divestiture issue and considered divesting additional refuges.

*Response:* The Service used the divestiture model (as described in appendix G) as a tool to determine which refuges should be considered for divestiture. This was the first use of this model and it may be refined in the future. During a divestiture workshop, the information for analyzing these refuges was provided by a team of managers and biologists who currently manage these areas. Based on this information, only six of the 39 refuges met the current criteria for divestiture consideration. The Service recognizes that there has been little attention given to these refuges since they were established. No funding has even been earmarked for management of this program. However, this plan is the most effective tool for elevating issues and requesting funding to properly manage these refuges. There are no guarantees, but it is certain that if this plan had not been completed, the directorate, who makes decisions on budgeting, would remain unaware of the needs to properly managing these refuges.

### Hunting and Trapping

Comment 1—A number of comments were received both for and against trapping on these refuges. Those opposed to trapping stated that it was cruel and that the EA failed to adequately justify continuing a trapping program. Those supporting trapping identified it as a valuable wildlife management tool for protecting ground nesting birds and endangered species.

*Response:* The Service has expanded the sections in the document discussing the

benefits of trapping to ground nesting bird survival. Predators (such as raccoons, skunks, and foxes) and habitat loss are the greatest threats to ground nesting birds. Small predators such as those mentioned have responded favorably to the fragmented habitats caused by development and agriculture. Their natural predators, such as wolves and grizzlies, have not. This has created an overabundant, unnatural population of these small predators which are effective hunters of ground nesting birds, in particular waterfowl, eggs, and young birds. Without this intervention, along with other methods, such as electrical fences and exclosures, nesting success would plummet. This would be devastating in this part of the country known as North America's "Duck Factory".

*Response:* The Service will revisit this issue when the International Association of Fish and Wildlife Agencies completes its research and develops a list of standard 'Best Management Practices' for trapping on public lands.

Comment 2—A variety of comments were received regarding the Service's proposal to work with willing landowners and the state to determine if any additional hunting opportunities are available. We heard from both those who oppose and support hunting on these refuges.

*Response:* The National Wildlife Refuge Improvement Act lists hunting as a priority public use on refuges when deemed compatible. It is not certain at this time whether any additional refuges will be opened for hunting. This determination will be made as part of implementation. It will be essential that willing landowners agree to provide access, but this is their decision, not a decision by the Service. Once access is granted, a compatibility determination will be completed for each proposed use. The public will be permitted to see these compatibility determinations. The document emphasizes that no additional public uses will be permitted unless access is granted, the resources are available to manage the use, and the use is deemed compatible with the purposes of the refuge, i.e. the use does not negatively impact migratory birds, in particular migrating waterfowl.

Comment 3—A few refuge landowners were concerned about opening their lands to public hunting due to the impacts to migrating waterfowl.

*Response:* No additional activities, including hunting, will be permitted on any refuge unless it is found compatible with the purposes for which it was established. In the case of the limited-interest refuges, the purpose includes a refuge for migratory birds, particularly waterfowl. If a willing landowner would like to have their lands open to public hunting (for white-tailed deer and certain geese species), the Service will ensure that this use does not impact migrating ducks in the spring and fall. Shortened seasons, permit-only hunting, or limited access are some tools to accomplish this. First and foremost, a landowner must be willing to grant access before the Service will even consider allowing public uses, including hunting. No limited-interest refuge is "automatically" open to any public use unless access is granted by willing landowners and the use is found compatible with the purposes of that refuge.

### **Fishing**

Comment 1—Concerned that fishing on the James River (Dakota NWR) impacts spawning fish in the spring.

*Response:* The Service Fisheries Division will work closely with the state to ensure areas open to fishing are compatible with the purposes of the refuge while ensuring that the fishery is not negatively impacted and can sustain the use.

### **Funding and Staffing**

Comment 1—It appears that the state coordinator would be essential to implementing this plan, how does the Service propose to get this position and other funding to implement this plan?

*Response:* Once this plan is approved, the Service will pursue the staff and funding necessary to implement this plan. Although there is no guarantee of funding, submitting this plan has made the decision makers aware of the needs of this program, something that had not been done at such a comprehensive level. If funding does come available, the landowners, and other who wish to remain on the mailing list, will be given this information in the annual newsletter.

Comment 2—The plan should address potential opportunities to examine current allocations of funding and resources a bit further.

*Response:* In the 70 year history of this program, there has never been any funds specifically earmarked for these refuges. This has lead to disrepair of water management structures and lack of interaction with refuge landowners. This planning process has renewed interest in these refuges and elevated the needs of this program.

### **Impoundments**

Comment 1—There is no discussion on the Service's ability to stop the draining of the impoundments.

*Response:* The document does state that the Service controls the water level and uses that occur on the impoundments or main body of water over which it holds a water right. This includes the ability to stop any draining of this impoundment if that is not within water level management objectives.

### **Incompatible Uses**

Comment 1—How will the Service communicate to the landowners which uses are compatible with the purposes of these refuges?

*Response:* This planning process was the first attempt to review both historical records in combination with Solicitor's opinions to pinpoint both the Service's and landowner rights on these refuges. There is a discussion of this in section 2.3 of the document. Since this program began, there have been some inconsistencies in the uses permitted on these refuges. The Service recognized this and ensured this rights determination was made early in the planning process. This is essential to the future of these refuges and for building relationships with the landowners. Any use under the authority of the Service that is proposed for these refuges will have to have a compatibility determination made to determine if it is compatible with the purposes of that refuge. The Service will work with the affected landowners when completing this determination and will take necessary actions to allow or deny a proposed use based on an impact analysis.

### **Signage**

Comment 1—The new boundary sign for these refuges should identify these refuges as private lands and identify the limited uses that may occur within the limited-interest refuge boundary, if any.

*Response:* The proposed limited-interest boundary sign will provide this information.

### **Wetland and Grassland Protection**

Comment 1—The Service should evaluate any wetlands and grasslands being considered for added protection using the same acquisition criteria used for wetland and native prairie grassland easements elsewhere in North Dakota.

*Response:* The Service will use both the wetland and grassland easement programs to compensate willing landowners for added protections. Therefore, the current criteria for these programs will be used for evaluating each future proposal.

Comment 2—The Service should work diligently to acquire the necessary upland habitat to prevent further loss of habitat.

*Response:* The plan includes objectives for the Service to work with willing landowners to provide additional compensation for added protection of upland habitats.

### **Crop Depredation**

Comment 1—There were numerous comments from landowners reiterating that they are losing significant amounts of crops to concentrated populations of geese (in particular snow and Canada's) and white-tailed deer.

*Response:* This was a frequent comment heard from landowners during the initial scoping process. The Service recognizes that crop depredation is an issue on these refuges. To address this issue, the Service has proposed in the plan to work with willing landowners and the state to open certain refuges to public hunting of certain geese species and white-tailed deer.

### **Invasive Species**

Comment 1—The Service should control the invasive species that occur on the uplands of these limited-interest refuges.

*Response:* The Service has determined that the easement did not give the government the right to control the uses that occur on the uplands. This means that landowners are able to farm, graze, build homes, etc., on these upland areas. This also means the Service is not responsible for such activities as controlling

invasive plants that occur on these uplands. This is the responsibility of the landowners.

### **Landowner Relations**

Comment 1—The Service should work more closely with the landowners and let them know when things are occurring on their respective refuges.

*Response:* The plan includes a partnership goal and several objectives and strategies for interacting with landowners while keeping

them informed about activities and programs that affect their respective refuges. At a minimum, each landowner and other interested parties will receive an annual newsletter updating them on the implementation of this plan and other opportunities for partnerships. The Service will also coordinate with landowners when any projects or enhancements are planned for their respective refuge.

# Appendix B. Glossary of Terms

**adaptive management**—a process in which projects are implemented within a framework of scientifically driven experiments to test predictions and assumptions outlined within the comprehensive conservation plan. The analysis of the outcome of project implementation helps managers determine whether current management should continue as is or whether it should be modified to achieve desired conditions.

**alternative**—a reasonable way to fix the identified problem or satisfy the stated need (40 CFR 1500.2) [see also *management alternative* below].

**approved acquisition boundary**—a project boundary which the Director of the Fish and Wildlife Service approves upon completion of the detailed planning and environmental compliance process.

**biological integrity**—composition, structure, and function at the genetic, organism, and community levels consistent with natural conditions, and the biological processes that shape genomes, organisms, and communities.

**biological or natural diversity**—the abundance, variety, and genetic constitution of animals and plants in nature. Also referred to as “biodiversity.”

**boreal**—describes a region that has a northern temperature climate, with cold winters and warm summers.

**breeding habitat**—habitat used by migratory birds or other animals during the breeding season.

**buffer zone or buffer strip**—protective land borders around critical habitats or water bodies that reduce runoff and nonpoint source pollution loading; areas created or sustained to lessen the negative effects of land development on animals and plants and their habitats.

**CFR**—Code of Federal Regulations.

**community**—the area or locality in which a group of people resides and shares the same government.

**compatibility determination**—a compatibility determination is required for a wildlife-dependant recreational use or any other public use of a refuge. A compatible use is one which, in the sound professional judgment of the refuge manager, will not materially interfere with or detract from fulfillment of the Refuge System Mission or refuge purpose(s).

**compatible use**—an allowed use that will not materially interfere with, or detract from, the purposes for which the unit was established (Service Manual 602 FW 1.4).

**comprehensive conservation plan (CCP)** —a document that describes the desired future conditions of a refuge or planning unit and provides long-range guidance and management direction to achieve the purposes of the refuge, help fulfill the mission of the System, maintain and, where appropriate, restore the biological integrity, diversity, and environmental health of each refuge and the System, and meet other mandates.

**concern**—see *issue*.

**conservation**—the management of natural resources to prevent loss or waste. Management actions may include preservation, recovery, restoration, and enhancement.

**cooperative agreement**—the legal instrument used when the principal purpose of the transaction is the transfer of money, property, services or anything of value to a recipient in order to accomplish a public purpose authorized by federal statute and substantial involvement between the Service and the recipient is anticipated.

**coteau**—a hilly upland or a divide between two valleys.

**cultural resources**—evidence of historic or prehistoric human activity, such as buildings, artifacts, archaeological sites, documents, or oral or written history.

**database**—a collection of data arranged for ease and speed of analysis and retrieval, usually computerized.

**easement**—an agreement by which a landowner gives up or sells one of the rights on his/her property.

**ecosystem**—a biological community together with its environment, functioning as a unit. For administrative purposes, the Service has designated 53 ecosystems covering the United States and its possessions. These ecosystems generally correspond with watershed boundaries and vary in their sizes and ecological complexity.

**ecotourism**—a type of tourism that maintains and preserves natural resources as a basis for promoting economic growth and development resulting from visitation to an area.

**emergent vegetation**—a vegetation type common in wetlands dominated by erect, rooted, herbaceous plants.

**endangered species**—a federally protected species which is in danger of extinction throughout all or a significant portion of its range.

**environmental assessment (EA)**—a concise public document, prepared in compliance with the National Environmental Policy Act, that briefly discusses the purpose and need for an action, alternatives to such action, and provides sufficient evidence and analysis of impacts to determine whether to prepare an environmental impact statement or finding of no significant impact (40 CFR 1508.9).

**environmental education**—education aimed at producing a citizenry that is knowledgeable concerning the biophysical environment and its associated problems, aware of how to help solve these problems, and motivated to work toward their solution (Stapp et al. 1969).

**environmental health**—the composition, structure, and functioning of soil, water, air, and other abiotic features comparable with historic conditions, including the natural abiotic processes that shape the environment.

**environmental impact statement (EIS)**—a detailed written statement required by section 102(2)(C) of the National Environmental Policy Act, analyzing the environmental impacts of a

preferred alternative, adverse effects of the project that cannot be avoided, alternative courses of action, short-term uses of the environment versus the maintenance and enhancement of long-term productivity, and any irreversible and irretrievable commitment of resources (40 CFR 1508.11).

**fauna**—all the vertebrae or invertebrate animals of an area.

**federal land**—public land owned by the federal government, including lands such as national forests, national parks and national wildlife refuges.

**federally listed species**—a species listed under the federal Endangered Species Act of 1973, as amended, either as endangered, threatened or species at risk (formerly candidate species).

**fee title**—the acquisition of most or all of the rights to a tract of land.

**Finding of no significant impact (FONSI)**—a document prepared in compliance with the National Environmental Policy Act, supported by an environmental assessment, that briefly presents why a federal action will have no significant effect on the human environment and for which an environmental impact statement, therefore, will not be prepared (40 CFR 1508.13).

**forbs**—a flowering plant, excluding grasses, sedges, and rushes, that does not have a woody stem and dies back to the ground at the end of the growing season.

**forested land**—land dominated by trees. For the purposes of the impacts analysis in this document, all forested land was assumed to have the potential to be occasionally harvested, and forested land owned by timber companies was assumed to be harvested on a more intensive, regular schedule.

**geographic information system (GIS)**—a computerized system used to compile, store, analyze and display geographically referenced information. Can be used to overlay information layers containing the distributions of a variety of biological and physical features.

**goal**—descriptive, open-ended, and often broad statement of desired future conditions that



conveys a purpose but does not define measurable units.

**habitat**—the place where a particular type of plant or animal lives. An organism's habitat must provide all of the basic requirements for life and should be free of harmful contaminants.

**habitat conservation**—the protection of an animal or plant's habitat to ensure that the use of that habitat by the animal or plant is not altered or reduced.

**inholding**—privately owned land inside the boundary of a national wildlife refuge.

**integrated pest management (IPM)**—sustainable approach to managing pests by combining biological, cultural, physical, and chemical tools in a way that minimizes economic, health, and environmental risks.

**invasive species**—nonnative species which have been introduced into an ecosystem, and, because of their aggressive growth habits and lack of natural predators, displace native species.

**issue**—any unsettled matter that requires a management decision; e.g., a Service initiative, an opportunity, a management problem, a threat to the resources of the unit, a conflict in uses, a public concerns, or the presence of an undesirable resource condition. Issues should be documented, described, and analyzed in the CCP even if resolution cannot be accomplished during the planning process (Service Manual 602 FW 1.4). See also: *key issue*.

**limited-interest refuge landowner**—a landowner who owns property that is covered by a refuge and/or flowage easement that is located within the approved acquisition boundary of a limited-interest national wildlife refuge.

**lacustrine**—of, relating to, formed in, living in, or growing in lakes.

**local agencies**—generally referring to municipal governments, regional planning commissions or conservation groups.

**long-term protection**—mechanisms such as fee-title acquisition, conservation easements, or binding agreements with landowners that ensure land use and land management practices

will remain compatible with maintenance of the species population at the site.

**main body of water**—an impoundment, lake or river that occurs within the refuge boundary.

**management alternative**—a set of objectives and the strategies needed to accomplish each objective (Service Manual 602 FW 1.4).

**management concern**—see *issue*.

**management opportunity**—see *issue*.

**management plan**—a plan that guides future land management practices on a tract of land. In the context of this environmental impact statement, management plans would be designed to produce additional wildlife habitat along with the primary products, such as timber or agricultural crops. See *cooperative agreement*.

**migratory**—the seasonal movement from one area to another and back.

**migratory game birds**—birds regulated under the Migratory Bird Treaty Act and state laws, that are legally hunted, includes ducks, geese, woodcock, rails.

**monitoring**—the process of collecting information to track changes of selected parameters over time.

**moraine**—a mass of earth and rock debris carried by an advancing glacier and left at its front and side edges as it retreats.

**National Environmental Policy Act of 1969 (NEPA)**—requires all agencies, including the Service, to examine the environmental impacts of their actions, incorporate environmental information, and use public participation in the planning and implementation of all actions. Federal agencies must integrate NEPA with other planning requirements, and prepare appropriate NEPA documents to facilitate better environmental decision making (from 40 CFR 1500).

**national wildlife refuge (refuge)**—a designated area of land, water, or an interest in land or water within the System, but does not include Coordination Areas." Find a complete listing of all units of the System in the current

*Annual Report of Lands Under Control of the U.S. Fish and Wildlife Service.*

**National Wildlife Refuge System (System)**—all lands and waters and interests therein administered by the Service as wildlife refuges, wildlife ranges, wildlife management areas, WPAs, and other areas for the protection and conservation of fish and wildlife, including those that are threatened with extinction.

**National Wildlife Refuge System Mission (mission)**—“The mission of the System is to administer a national network of lands and waters for the conservation, management and, where appropriate, restoration of the fish, wildlife and plant resources and their habitats within the United States for the benefit of present and future generations of Americans.”

**native plant**—a plant that has grown in the region since the last glaciation and occurred before European settlement.

**native species**—species that normally live and thrive in a particular ecosystem.

**Neotropical migratory bird**—a bird species that breeds north of the United States/Mexican border and winters primarily south of that border.

**nonconsumptive, wildlife-oriented recreation**—photographing or observing plants, fish and other wildlife.

**notice of intent (NOI)**—a notice that an environmental impact statement will be prepared and considered (40 CFR 1508.22). Published in the Federal Register.

**objective**—a concise statement of what we want to achieve, how much we want to achieve, when and where we want to achieve it, and who is responsible for the work. Objectives derive from goals and provide the basis for determining strategies, monitoring refuge accomplishments, and evaluating the success of strategies. Make objectives attainable, time-specific, and measurable.

**Partners for Wildlife Program**—a voluntary habitat restoration program undertaken by the Fish and Wildlife Service in cooperation with other governmental agencies, public and private organizations, and private landowners to improve and protect fish and wildlife habitat

on private lands while leaving the land in private ownership.

**partnership**—a contract or agreement entered into by two or more individuals, groups of individuals, organizations or agencies in which each agrees to furnish a part of the capital or some in-kind service, i.e., labor, for a mutually beneficial enterprise.

**phenological**—periodic biological phenomena the are correlated with climatic conditions.

**planning area**—a planning area may include lands outside existing planning unit boundaries that are being studied for inclusion in the unit and/or partnership planning efforts. It may also include watersheds or ecosystems that affect the planning area.

**planning team**—a planning team prepares the comprehensive conservation plan. Planning teams are interdisciplinary in membership and function. A team generally consists of a planning team leader; refuge manager and staff biologist; staff specialists or other representatives of Service programs, ecosystems or regional offices; and state partnering wildlife agencies as appropriate.

**Preferred Alternative**—the alternative that is preferred by the Service and that will become the management direction in the final document.

**priority public uses**—see wildlife-dependant recreational uses.

**private land**—land that is owned by a private individual, group of individuals, or non-governmental organization.

**private landowner**—any individual, group of individuals or nongovernmental organization that owns land.

**private organization**—any nongovernmental organization.

**proglacial**—landforms and deposits just beyond the margin of glacial ice.

**proposed action**—activities for which an environmental assessment is being written; the alternative containing the actions and strategies recommended by the planning team.

The proposed action is, for all practical purposes, the draft CCP for the refuge.

**protection**—mechanisms such as fee-title acquisition, conservation easements, or binding agreements with landowners that ensure land use and land management practices will remain compatible with maintenance of the species population at the site.

**public**—individuals, organizations, and groups; officials of federal, state, and local government agencies; Indian tribes; and foreign nations. It may include anyone outside the core planning team. It includes those who may or may not have indicated an interest in the Service issues and those who do or do not realize that Service decisions may affect them.

**public involvement**—a process that offers impacted and interested individuals and organizations an opportunity to become informed about, and to express their opinions on Service actions and policies. In the process, these views are studied thoroughly and thoughtful consideration of public views is given in shaping decisions for refuge management.

**public land**—land that is owned by the local, state, or federal government.

**purpose of the refuge**—the purpose of the refuge is specified in or derived from the law, proclamation, executive order, agreement, public land order, donation document, or administrative memorandum establishing, authorizing, or expanding a refuge and refuge unit.

**refuge goals**—descriptive, open-ended and often broad statements of desired future conditions that convey a purpose but do not define measurable units (Writing Refuge Management Goals and Objectives: A Handbook).

**refuge lands**—those lands in which the Service holds full interest in fee title, or partial interest such as limited-interest refuges.

**Refuge Operating Needs System**—the Refuge Operating Needs System is a national database, which contains the unfunded operational needs of each refuge. We include projects required to implement approved plans, and meet goals, objectives, and legal mandates.

**refuge purposes**—the purposes specified in or derived from the law, proclamation, executive order, agreement, public land order, donation document, or administrative memorandum establishing, authorizing, or expanding a refuge, a refuge unit, or refuge subunit, and any subsequent modification of the original establishing authority for additional conservation purposes (Service Manual 602 FW 1.4).

**restoration**—the artificial manipulation of a habitat to restore it to something close to its natural state.

**runoff**—water from rain, melted snow, or agricultural or landscape irrigation that flows over the land surface into a water body.

**Service presence**—the existence of the Service through its programs and facilities which it directs or shares with other organizations; the public awareness of the Service as a sole or cooperative provider of programs and facilities.

**species of concern**—species present in the watershed for whom the refuge has a special management interest. The following criteria were used to identify a species of concern:

1. Federally listed as threatened or endangered;
2. Migratory bird, especially declining species, Neotropical migrants, colonial waterbirds, shorebirds, or waterfowl;
3. Marine mammal;
4. Sea turtle;
5. Interjurisdictional fish;
6. State-listed as threatened, endangered, or special concern.

**state land**—public land owned by a state such as state parks or state wildlife management areas.

**step-down management plans**—step-down management plans describe management strategies and implementation schedules. Step-down management plans are a series of plans dealing with specific management subjects (e.g., croplands, wilderness, and fire) (Service Manual 602 FW 1.4).

**strategy**—a specific action, tool, technique, or combination of actions, tools, and techniques used to meet unit objectives.

**substantive issue**—an issue meeting the following three criteria:

- Falls within the jurisdiction of the Service;
- Can be addressed by a reasonable range of alternatives;
- Influences the outcome of the project.

**surficial**—relating to or occurring on the surface.

**threatened species**—a federally protected species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

**trust resource**—one that through law or administrative act is held in trust for the people by the government. A federal trust resource is one for which trust responsibility is given in part to the federal government through federal legislation or administrative act. Generally, federal trust resources are those considered to be of national or international importance no matter where they occur, such as endangered species and species such as migratory birds and fish that regularly move across state lines. In addition to species, trust resources include cultural resources protected through federal historic preservation laws, nationally important and threatened habitats, notably wetlands, navigable waters, and public lands such as state parks and rational wildlife refuges.

**upland**—dry ground; other than wetlands.

**U.S. Fish and Wildlife Service Mission**—our mission is to work with others to “conserve, protect, and enhance fish and wildlife, and their habitat for the continuing benefit of the American people.

**vision statement**—concise statement of what the unit could be in the next 10 to 15 years

**watchable wildlife**—all wildlife is watchable. A watchable wildlife program is a strategy to help maintain viable populations of all native fish and wildlife species by building an effective, well- informed constituency for conservation. Watchable wildlife programs are tools by which wildlife conservation goals can be met while at the same time fulfilling public

demand for wildlife recreational activities (other than sport hunting, trapping or sport fishing).

**watershed**—the geographic area within which water drains into a particular river, stream or body of water. A watershed includes both the land and the body of water into which the land drains.

**wetlands**—The U.S. Fish and Wildlife Service’s definition of wetlands states that “Wetlands are lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water” (Cowardin et al. 1979).

**wilderness**—The legal definition is found in the Wilderness Act of 1964 Section 2c (P.L. 88-577): “A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain.” This legal definition places wilderness on the “untrammeled” or “primeval” end of the environmental modification spectrum. Wilderness is roadless lands, legally classified as component areas of the National Wilderness Preservation System, and managed so as to protect its qualities of naturalness, solitude and opportunity for primitive types of recreation (Hendee 1990).

**wildlife-dependent recreational use**—a use of a refuge involving hunting, fishing, wildlife observation and photography, or environmental education and interpretation. These are the six priority public uses of the System as established in the National Wildlife Refuge System Administration Act, as amended. Wildlife-dependent recreational uses, other than the six priority public uses, are those that depend on the presence of wildlife. We also will consider these other uses in the preparation of refuge CCPs, however, the six priority public uses always will take precedence.

**wildlife management**—the practice of manipulating wildlife populations, either directly through regulating the numbers, ages, and sex ratios harvested, or indirectly by providing favorable habitat conditions and alleviating limiting factors.



# Appendix C. Decision Documents

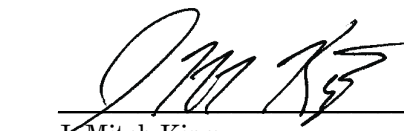



# Environmental Action Statement


U.S. Fish and Wildlife Service, Region 6  
Lakewood, Colorado

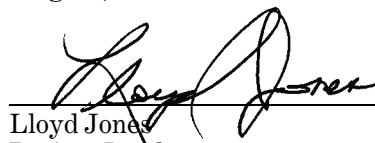
Within the spirit and intent of the Council on Environmental Quality's regulations for implementing the National Environmental Policy Act and other statutes, orders, and policies that protect fish and wildlife resources, I have established the following administrative record.

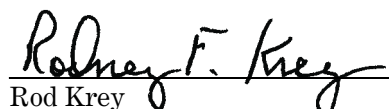
I have determined that the action of implementing the *Comprehensive Conservation Plan for the North Dakota Limited-interest National Wildlife Refuges* is found not to have significant environmental effects, as determined by the attached Finding of No Significant Impact and the environmental assessment as found with the draft comprehensive conservation plan.

 4/14/06  
\_\_\_\_\_  
J. Mitch King Date  
Regional Director  
U.S. Fish and Wildlife Service, Region 6  
Lakewood, CO


 4/6/06  
\_\_\_\_\_  
Kim Hanson Date  
Project Leader  
Arrowwood National Wildlife Refuge Complex  
Pingree, ND

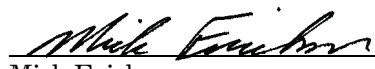
 4/12/06  
\_\_\_\_\_  
Richard A. Coleman, Ph.D. Date  
Assistant Regional Director, NWRS  
U.S. Fish and Wildlife Service, Region 6  
Lakewood, CO

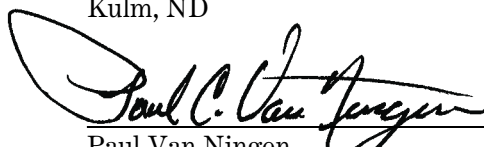
 4/6/06  
\_\_\_\_\_  
Lloyd Jones Date  
Project Leader  
Audubon National Wildlife Refuge Complex  
Coleharbor, ND

 4/12/06  
\_\_\_\_\_  
Rod Krey Date  
Refuge Program Supervisor (ND, SD)  
U.S. Fish and Wildlife Service, Region 6  
Lakewood, CO

 4/11/06  
\_\_\_\_\_  
Roger Hollevoet Date  
Project Leader  
Devils Lake Wetland Management District  
Devils Lake, ND

 4/6/06  
\_\_\_\_\_  
Tedd Gutzke Date  
Project Leader  
J. Clark Salyer National Wildlife Refuge Complex  
Upham, ND

 4/6/06  
\_\_\_\_\_  
Mick Erickson Date  
Project Leader  
Kulm Wetland Management District  
Kulm, ND

 4/6/06  
\_\_\_\_\_  
Paul Van Ningen Date  
Project Leader  
Long Lake National Wildlife Refuge Complex  
Moffit, ND

## Finding of No Significant Impact

U.S. Fish and Wildlife Service, Region 6  
Lakewood, Colorado

Two management alternatives for the 39 North Dakota limited-interest national wildlife refuges' programmatic comprehensive conservation plan were assessed as to their effectiveness in achieving the refuges' purposes and their impact on the human environment. Alternative A (the no-action alternative) would continue current management, which has been very minimal, of these refuges. Alternative B ("Enhance the Program," the proposed action) first proposes to consider for divestiture six refuges, which have no potential to fully function as part of the National Wildlife Refuge System. The remaining 33 refuges would be managed in cooperation with willing landowners, the state, and other partners, to (1) evaluate and prioritize habitats for added protection, (2) improve relations and sharing of information with refuge landowners, (3) protect the Service's rights acquired through the easement agreement, and (4) work with willing landowners and the state to determine if additional public use activities such as hunting, fishing, environmental education are feasible on some or all of these refuges. Based on this assessment and comments received, I have selected alternative B for implementation.

The preferred alternative (alternative B) was selected because it best meets the purposes for which these refuges were established and is preferable to the no-action alternative in light of physical, biological, economic, and social factors.

I find that the preferred alternative is not a major federal action that would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969. Accordingly, the preparation of an environmental impact statement on the proposed action is not required.

The following is a summary of anticipated environmental effects from implementation of the preferred alternative:

- The preferred alternative will not adversely impact endangered or threatened species or their habitat.
- The preferred alternative will not adversely impact archaeological or historical resources.
- The preferred alternative will not adversely impact wetlands nor does the plan call for structures that could be damaged by or that would significantly influence the movement of floodwater.
- The preferred alternative will not have a disproportionately high or adverse human health or environmental effect on minority or low-income populations.
- The State of North Dakota has been notified and given the opportunity to review the comprehensive conservation plan and associated environmental assessment.



J. Mitch King  
Regional Director  
U.S. Fish and Wildlife Service, Region 6  
Lakewood, CO



Date



# Appendix D. Key Legislation and Policies

**Americans With Disabilities Act (1992):** Prohibits discrimination in public accommodations and services.

**Antiquities Act (16 U.S.C. 431–433):** The act of June 8, 1906, (34 Stat. 225) authorizes the President to designate as National Monuments objects or areas of historic or scientific interest on lands owned or controlled by the United States. The act required that a permit be obtained for examination of ruins, excavation of archaeological sites and the gathering of objects of antiquity on lands under the jurisdiction of the Secretaries of Interior, Agriculture, and Army, and provided penalties for violations.

**Archeological and Historic Preservation Act (16 U.S.C. 469–469c):** Public Law 86-523, approved June 27, 1960, (74 Stat. 220) as amended by Public Law 93-291, approved May 24, 1974, (88 Stat. 174) to carry out the policy established by the Historic Sites Act (see below), directed federal agencies to notify the Secretary of the Interior whenever they find a federal or federally assisted, licensed or permitted project may cause loss or destruction of significant scientific, prehistoric or archaeological data. The act authorizes use of appropriated, donated and/or transferred funds for the recovery, protection and preservation of such data.

**Archaeological Resources Protection Act (16 U.S.C. 470aa–470ll):** Public Law 96-95, approved October 31, 1979, (93 Stat. 721): Largely supplants the resource protection provisions of the Antiquities Act for archaeological items.

This act establishes detailed requirements for issuance of permits for any excavation for or removal of archaeological resources from federal or Indian lands. It also establishes civil and criminal penalties for the unauthorized excavation, removal, or damage of any such resources; for any trafficking in such resources removed from federal or Indian land in violation of any provision of federal law; and for interstate and foreign commerce in such resources acquired, transported, or received in violation of any state or local law.

*Public Law 100-588, approved November 3, 1988, (102 Stat. 2983):* Lowers the threshold value of artifacts triggering the felony provisions of the act from \$5,000 to \$500, makes attempting to commit an action prohibited by the act a violation, and requires the land managing agencies to establish public awareness programs regarding the value of archaeological resources to the Nation.

**Architectural Barriers Act (1968):** Requires federally owned, leased, or funded buildings and facilities to be accessible to persons with disabilities.

**Clean Water Act (1977):** Requires consultation with the U.S. Army Corps of Engineers for major wetland modifications.

**Criminal Code of Provisions of 1940 as amended, (18 U.S.C. 41):** States the intent of Congress to protect all wildlife within federal sanctuaries, refuges, fish hatcheries, and breeding grounds. Provides that anyone (except in compliance with rules and regulations promulgated by authority of law) who hunts, traps, or willfully disturbs any such wildlife, or willfully injures, molests, or destroys any property of the United States on such land or water, shall be fined up to \$500 or imprisoned for not more than 6 months or both.

**Emergency Wetland Resources Act of 1986:** Authorizes the purchase of wetlands from Land and Water Conservation Fund moneys, removing a prior prohibition on such acquisitions. The act also requires the Secretary to establish a National Wetlands Priority Conservation Plan, requires the states to include wetlands in their Comprehensive Outdoor Recreation Plans, and transfers to the Migratory Bird Conservation Fund amount equal to import duties on arms and ammunition.

**Endangered Species Act of 1973 and recent amendments (16 U.S.C. 1531–1543; 87 Stat. 884) as amended (Establishing legislation.):** Provides for conservation of threatened and endangered species of fish, wildlife, and plants

by federal action and by encouraging state programs. Specific provisions include:

- The listing and determination of critical habitat for endangered and threatened species and consultation with the Service on any federally funded or licensed project that could affect any of these agencies;
- Prohibition of unauthorized taking, possession, sale, transport, etc., of endangered species;
- An expanded program of habitat acquisition;
- Establishment of cooperative agreements and grants-in-aid to states that establish and maintain an active, adequate program for endangered and threatened species;
- Assessment of civil and criminal penalties for violating the act or regulations.

**Environmental Education Act of 1990 (20 U.S.C. 5501–5510; 104 Stat. 3325):** Public Law 101-619, signed November 16, 1990, established the Office of Environmental Education within the Environmental Protection Agency to develop and administer a federal environmental education program.

Responsibilities of the Office include developing and supporting programs to improve understanding of the natural and developed environment, and the relationships between humans and their environment; supporting the dissemination of educational materials; developing and supporting training programs and environmental education seminars; managing a federal grant program; and administering an environmental internship and fellowship program. The Office is required to develop and support environmental programs in consultation with other federal natural resource management agencies, including the Fish and Wildlife Service.

**Executive Order 11644, Use of Off-Road Vehicles on Public Lands (1972):** Provides policy and procedures for regulating off-road vehicles.

**Executive Order 11988, Floodplain Management:** This executive order, signed May 24, 1977, prevents federal agencies from contributing to the “adverse impacts associated with occupancy and modification of floodplains”

and the “direct or indirect support of floodplain development.” In the course of fulfilling their respective authorities, federal agencies “shall take action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains.

**Executive Order 12996, Management and General Public Use of the National Wildlife Refuge System (1996):** Defines the mission, purpose, and priority public uses of the National Wildlife Refuge System. It also presents four principles to guide management of the system.

**Executive Order 13007, Indian Sacred Sites (1996):** Directs federal land management agencies to accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners, avoid adversely affecting the physical integrity of such sacred sites, and where appropriate, maintain the confidentiality of sacred sites.

**Federal Noxious Weed Act (1990):** Requires the use of integrated management systems to control or contain undesirable plant species; and an interdisciplinary approach with the cooperation of other federal and state agencies.

**Fish and Wildlife Act of 1956 (70 Stat. 1119; 16 U.S.C. 742a–742J), as amended:** Establishes a comprehensive fish and wildlife policy and directs the Secretary of the Interior to provide continuing research; extension and conservation of fish and wildlife resources.

**Fish and Wildlife Conservation Act of 1980 (Public Law 96-366, September 29, 1980, 16 U.S.C. 2901–2911, as amended 1986, 1988, 1990 and 1992):** Creates a mechanism for federal matching funding of the development of state conservation plans for nongame fish and wildlife. Subsequent amendments to this law require that the Secretary monitor and assess migratory nongame birds, determine the effects of environmental changes and human activities, identify birds likely to be candidates for endangered species listing, and identify conservation actions that would prevent this from being necessary. In 1989, Congress also directed the Secretary to identify lands and waters in the Western Hemisphere, the protection, management or acquisition of which would foster conservation of migratory nongame birds. All of these activities are

intended to assist the Secretary in fulfilling the Secretary's responsibilities under the Migratory Bird Treaty Act and the Migratory Bird Conservation Act, and provisions of the Endangered Species Act implementing the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere.

**Fish and Wildlife Improvement Act of 1978:** Improves the administration of fish and wildlife programs and amends several earlier laws, including the Refuge Recreation Act, the National Wildlife Refuge Administration Act, and the Fish and Wildlife Act of 1956. It authorizes the Secretary to accept gifts and bequests of real and personal property on behalf of the United States. It also authorizes the use of volunteers on Service projects and appropriations to carry out volunteer programs.

**Historic Sites, Buildings and Antiquities Act (16 U.S.C. 461–462, 464–467):** The act of August 21, 1935, (49 Stat. 666) popularly known as the Historic Sites Act, as amended by Public Law 89-249, approved October 9, 1965, (79 Stat. 971) declares it a national policy to preserve historic sites and objects of national significance, including those located on refuges. It provides procedures for designation, acquisition, administration and protection of such sites. Among other things, National Historic and Natural Landmarks are designated under authority of this act. As of January 1989, 31 national wildlife refuges contained such sites.

**Land and Water Conservation Fund Act (LWCFA) of 1965:** Provides funds from leasing bonuses, production royalties and rental revenues for offshore oil, gas, and sulphur extraction to the Bureau of Land Management, the U.S. Forest Service and the U.S. Fish and Wildlife Service, and state and local agencies for purchase of lands for parks, open space, and outdoor recreation.

**Migratory Bird Conservation Act of 1929 (16 U.S.C. 715–715d, 715e, 715f–715r):** Establishes the Migratory Bird Conservation Commission, which consists of the Secretaries of the Interior (chairman), Agriculture, and Transportation, two members from the House of Representatives, and an ex-officio member from the state in which a project is located. The Commission approves acquisition of land and water, or interests therein, and sets the priorities for acquisition of lands by the

Secretary for sanctuaries or for other management purposes. Under this act, to acquire lands, or interests therein, the state concerned must consent to such acquisition by legislation. Such legislation has been enacted by most states.

**Migratory Bird Conservation Act of 1929 (16 U.S.C. 715-s, 45 Stat. 1222), as amended:** Authorizes acquisition, development, and maintenance of migratory bird refuges; cooperation with other agencies, in conservation; and investigations and publications on North American birds. Authorizes payment of 25 percent of net receipts from administration of national wildlife refuges to the country or counties in which such refuges are located.

**Migratory Bird Hunting and Conservation Stamp Act of 1934 (16 U.S.C. 718–718h; 48 Stat. 51), as amended:** The “Duck Stamp Act,” as this March 16, 1934, authority is commonly called, requires each waterfowl hunter 16 years of age or older to possess a valid federal hunting stamp. Receipts from the sale of the stamp are deposited in a special Treasury account known as the Migratory Bird Conservation Fund and are not subject to appropriations.

**Migratory Bird Treaty Act of 1918 (16 U.S.C. 703–711; 50 CFR Subchapter B), as amended:** Implements treaties with Great Britain (for Canada) and Mexico for protection of migratory birds whose welfare is a federal responsibility. Provides for regulations to control taking, possession, selling, transporting, and importing of migratory birds and provides penalties for violations.

**National and Community Service Act of 1990 (42 U.S.C. 12401; 104 Stat. 3127):** Public Law 101-610, signed November 16, 1990, authorizes several programs to engage citizens of the U.S. in full- and/or part-time projects designed to combat illiteracy and poverty, provide job skills, enhance educational skills, and fulfill environmental needs. Several provisions are of particular interest to the U.S. Fish and Wildlife Service.

*American Conservation and Youth Service Corps:* As a federal grant program established under Subtitle C of the law, the Corps offers an opportunity for young adults between the ages of 16–25, or in the case of summer programs, 15–21, to engage

in approved human and natural resources projects which benefit the public or are carried out on federal or Indian lands.

To be eligible for assistance, natural resources programs will focus on improvement of wildlife habitat and recreational areas, fish culture, fishery assistance, erosion, wetlands protection, pollution control and similar projects. A stipend of not more than 100 percent of the poverty level will be paid to participants. A Commission established to administer the Youth Service Corps will make grants to states, the Secretaries of Agriculture and Interior and the Director of ACTION to carry out these responsibilities.

*Thousand Points of Light:* Creates a nonprofit Points of Light Foundation to administer programs to encourage citizens and institutions to volunteer in order to solve critical social issues, and to discover new leaders and develop institutions committed to serving others.

**National Historic Preservation Act of 1966 (16 U.S.C. 470–470b, 470c–470n):** Public Law 89-665, approved October 15, 1966, (80 Stat. 915) and repeatedly amended, provides for preservation of significant historical features (buildings, objects and sites) through a grant-in-aid program to the states. It establishes a National Register of Historic Places and a program of matching grants under the existing National Trust for Historic Preservation (16 U.S.C. 468–468d).

The act establishes an Advisory Council on Historic Preservation, which was made a permanent independent agency in Public Law 94-422, approved September 28, 1976 (90 Stat. 1319). That act also creates the Historic Preservation Fund. Federal agencies are directed to take into account the effects of their actions on items or sites listed or eligible for listing in the National Register.

As of January 1989, 91 historic sites on national wildlife refuges have been placed on the National Register. There are various laws for the preservation of historic sites and objects:

**National Environmental Policy Act of 1969 (P.L. 91-190, 42 U.S.C. 4321–4347, January 1, 1970, 83 Stat. 852) as amended by P.L. 94-52, July 3, 1975, 89 Stat. 258, and P.L. 94-83, August 9, 1975, 89 Stat. 424):** Declares

national policy to encourage a productive and enjoyable harmony between humans and their environment. Section 102 of that act directs that “to the fullest extent possible:

- The policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this act, and
- All agencies of the federal government shall ... insure that presently unquantified environmental amenities and values may be given appropriate consideration in decision making along with economic technical considerations.”

Section 102(2)c of NEPA requires all federal agencies, with respect to major federal actions significantly affecting the quality of the human environment, to submit to the Council on environmental Quality a detailed statement of:

- the environmental impact of the proposed action;
- any adverse environmental effect which cannot be avoided should the proposal be implemented;
- alternatives to the proposed action;
- the relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity;
- any irreversible and irretrievable commitments of resources which would be involved in the proposed action, should it be implemented.

**National Wildlife Refuge Regulations for the most recent fiscal year (50 CFR 25–35, 43 CFR 3103.2 and 3120.3-3):** Provides regulations for administration and management of national wildlife refuges including mineral leasing, exploration, and development.

**National Wildlife Refuge System Administration Act of 1966 (Public Law 89-669; 80 Stat. 929; 16 U.S.C. 668dd–668ee), as amended:** This act defines the National Wildlife Refuge System as including wildlife refuges, areas for protection and conservation of fish and wildlife which are threatened with extinction, wildlife ranges, game ranges, wildlife management areas, and WPAs. The Secretary is authorized to permit any use of an

area provided such use is compatible with the major purposes for which such area was established. The purchase consideration for rights-of-way go into the Migratory Bird Conservation Fund for the acquisition of lands. By regulation, up to 40 percent of an area acquired for a migratory bird sanctuary may be opened to migratory bird hunting unless the Secretary finds that the taking of any species of migratory game birds in more than 40 percent of such area would be beneficial to the species. The act requires an act of Congress for the divestiture of lands in the system, except (1) lands acquired with Migratory Bird Conservation Commission funds, and (2) lands can be removed from the system by land exchange, or if brought into the system by a cooperative agreement, then pursuant to the terms of the agreement.

**National Wildlife Refuge System Improvement Act of 1997 (Public Law 105-57, October 9, 1997, Amendment to the National Wildlife Refuge System Administration Act of 1966):** This act defines the mission of the National Wildlife Refuge System:

“To administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife and plant resources and their habitats within the United States for the benefit of present and future generations of Americans.”

Key provisions include the following:

- A requirement that the Secretary of the Interior ensures maintenance of the biological integrity, diversity, and environmental health of the National Wildlife Refuge System;
- The definition of compatible wildlife-dependent recreation as “legitimate and appropriate general public use of the [National Wildlife Refuge] System;”
- The establishment of hunting, fishing, wildlife observation and photography, and environmental education and interpretation as “priority public uses” where compatible with the mission and purpose of individual national wildlife refuges;
- The refuge managers’ authority to use sound professional judgment in determining which public uses are

compatible on national wildlife refuge and whether or not they will be allowed (a formal process for determining “compatible use” is currently being developed);

- The requirement of open public involvement in decisions to allow new uses of national wildlife refuges and renew existing ones, as well as in the development of comprehensive conservation plans for national wildlife refuges.

**North American Wetlands Conservation Act (103 Stat. 1968; 16 U.S.C. 4401–4412):** Public Law 101-233, enacted December 13, 1989, provides funding and administrative direction for implementation of the North American Waterfowl Management Plan and the Tripartite Agreement on wetlands between Canada, U.S. and Mexico.

The act converts the Pittman–Robertson account into a trust fund, with the interest available without appropriation through the year 2006 to carry out the programs authorized by the act, along with an authorization for annual appropriation of \$15 million plus an amount equal to the fines and forfeitures collected under the Migratory Bird Treaty Act.

Available funds may be expended, upon approval of the Migratory Bird Conservation Commission, for payment of not to exceed 50 percent of the United States share of the cost of wetlands conservation projects in Canada, Mexico, or the United States (or 100 percent of the cost of projects on federal lands). At least 50 percent and no more than 70 percent of the funds received are to go to Canada and Mexico each year.

**Refuge Recreation Act of 1962:** Authorizes the Secretary of the Interior to administer refuges, hatcheries, and other conservation areas for recreational use, when such uses do not interfere with the area’s primary purposes. It authorizes construction and maintenance of recreational facilities and the acquisition of land for incidental fish and wildlife oriented recreational development or protection of natural resources. It also authorizes the charging of fees for public uses.

**Refuge Recreation Act of 1966 (Public Law 87-714; 76 Stat. 653–654; 16 U.S.C. 460k et seq.):** Authorizes appropriate, incidental, or secondary recreational use on conservation

areas administered by the Secretary of the Interior for fish and wildlife purposes.

**Refuge Revenue Sharing Act (16 U.S.C. 715s):** Section 401 of the act of June 15, 1935, (49 Stat. 383) provides for payments to counties in lieu of taxes, using revenues derived from the sale of products from refuges.

*Public Law 88-523, approved August 30, 1964, (78 Stat. 701):* makes major revisions by requiring that all revenues received from refuge products, such as animals, timber and minerals, or from leases or other privileges, be deposited in a special Treasury account and net receipts distributed to counties for public schools and roads.

*Public Law 93-509, approved December 3, 1974, (88 Stat. 1603):* requires that moneys remaining in the fund after payments be transferred to the Migratory Bird Conservation Fund for land acquisition under provisions of the Migratory Bird Conservation Act.

*Public Law 95-469, approved October 17, 1978, (92 Stat. 1319):* expands the revenue sharing system to include National Fish Hatcheries and Service research stations. It also includes in the Refuge Revenue Sharing Fund receipts from the sale of salmonid carcasses. Payments to counties were established as:

1. On acquired land, the greatest amount calculated on the basis of 75 cents per acre, three-fourths of one percent of the appraised value, or 25 percent of the net receipts produced from the land; and
2. On land withdrawn from the public domain, 25 percent of net receipts and basic payments under Public Law 94-565 (31 U.S.C. 1601–1607, 90 Stat. 2662), payment in lieu of taxes on public lands.

This amendment also authorizes appropriations to make up any difference between the amount in the Fund and the amount scheduled for payment in any year. The stipulation that payments be used for schools and roads was removed, but counties were required to pass payments along to other units of local government within the county which

suffer losses in revenues due to the establishment of Service areas.

**Refuge Revenue Sharing Act of 1978 (Public Law 95-469, October 17, 1978, [amended 16 U.S.C. 715s]; 50 CFR, part 34):** Changes the provisions for sharing revenues with counties in a number of ways. It makes revenue sharing applicable to all lands administered by the Service, whereas previously it was applicable only to areas in the National Wildlife Refuge System. The new law makes payments available for any governmental purpose, whereas the old law restricted the use of payments to roads and schools. For lands acquired in fee simple, the new law provides a payment of 75 cents per acre, 3/4 of 1 percent of fair market value or 25 percent of net receipts, whichever is greatest, whereas the old law provided a payment of 3/4 of 1 percent adjustment cost or 25 percent of net receipts, whichever was greater. The new law makes reserve (public domain) lands entitlement lands under Public Law 94-565 (16 U.S.C. 1601–1607, and provides for a payment of 25 percent of net receipts.

The new law authorizes appropriations to make up any shortfall in net receipts, to make payments in the full amount for which counties are eligible. The old law provided that if net receipts were insufficient to make full payment, payment to each county would be reduced proportionality.

**Refuge Trespass Act of June 28, 1906 (18 U.S.C. 41; 43 Stat. 98, 18 U.S.C. 145):**

Provides first federal protection for wildlife on national wildlife refuges. This act makes it unlawful to hunt, trap, capture, willfully disturb, or kill any bird or wild animal, or take or destroy the eggs of any such birds, on any lands of the United States set apart or reserved as refuges or breeding grounds for such birds or animals by any law, proclamation, or executive order, except under rules and regulations of the Secretary. The act also protects government property on such lands.

**Refuge Trespass Act of June 25, 1948 (18 U.S.C. 41. Stat 686)—Section 41 of the Criminal code, title 18:** Consolidates the penalty provisions of various acts from January 24, 1905 (16 U.S.C. 684–687; 33 Stat. 614), through March 10, 1934 (16 U.S.C. 694–694b; 48 Stat. 400) and restates the intent of Congress to protect all wildlife within federal sanctuaries, refuges, fish hatcheries and

breeding grounds. The act provides that anyone (except in compliance with rules and regulations promulgated by authority of law) who hunts, traps or willfully disturbs any wildlife on such areas, or willfully injures, molest or destroys any property of the United States on such lands or waters, shall be fined, imprisoned, or both.

**Rehabilitation Act of 1973 (29 U.S.C. 794 ), as amended:** Title 5 of P.L. 93-112 (87 Stat. 355), signed October 1, 1973, prohibits discrimination on the basis of handicap under any program or activity receiving federal financial assistance.

**Rights-of-Way General Regulations (50 CFR 29.21; 34 fr 19907, December 19, 1969):**

Provides for procedures for filing applications. Provides terms and conditions under which rights-of-way over, above, and across lands administered by the Service may be granted.

**Section 401 of the Federal Water Pollution Control Act of 1972 (Public Law 92-500; 86 Stat. 816, 33 U.S.C. 1411):** Requires any applicant for a federal license or permit to conduct any activity which may result in a discharge into navigable waters to obtain a certification from the state in which the discharge originates or will originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over navigable waters at the point where the discharge originates or will originate, that the discharge will comply with applicable effluent limitations and water quality standards. A certification obtained for construction of any facility must also pertain to subsequent operation of the facility.

**Section 404 of the Federal Water Pollution Control Act of 1972 (Public Law 92-500, 86 Stat. 816):** Authorizes the Secretary of the Army, acting through the Chief of Engineers, to issue permits, after notice and opportunity for public hearing, for discharge of dredged or fill material into navigable waters of the United States, including wetlands, at specified disposal sites. Selection of disposal sites will be in

accordance with guidelines developed by the Administrator of the Environmental Protection Agency in conjunction with the Secretary of the Army. Furthermore, the Administrator can prohibit or restrict use of any defined area as a disposal site whenever she/he determines, after notice and opportunity for public hearings, that discharge of such materials into such areas will have an unacceptable adverse effect on municipal water supplies, shellfish beds, fishery areas, wildlife, or recreational areas.

**Transfer of Certain Real Property for Wildlife Conservation Purposes Act of 1948:**

Provides that upon determination by the Administrator of the General Services Administration, real property no longer needed by a federal agency can be transferred, without reimbursement, to the Secretary of the Interior if the land has particular value for migratory birds, or to a state agency for other wildlife conservation purposes.

**Wilderness Act of 1964:** Public Law 88-577, approved September 3, 1964, directs the Secretary of the Interior, within 10 years, to review every roadless area of 5,000 or more acres and every roadless island (regardless of size) within National Wildlife Refuge and National Park Systems for inclusion in the National Wilderness Preservation System.

Administration of national wildlife refuges is governed by bills passed by the United States Congress and signed into law by the President of the United States, and by regulations promulgated by the various branches of the government. Following is a brief description of some of the most pertinent laws and statues establishing legal parameters and policy direction for the National Wildlife Refuge System:

**Wilderness Preservation and Management] (50 CFR 35; 78 Stat. 890; 16 U.S.C. 1131-1136; 43 U.S.C. 1201):** Provides procedures for establishing wilderness units under the Wilderness Act of 1964 on units of the National Wildlife Refuge System.





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# Appendix F. Section 7 Biological Evaluation

## MEMORANDUM

To: Refuge Manager, Tewaukon NWR

Cayuga, North Dakota (Attn: Laura King)

From: Field Supervisor, Ecological Services

Bismarck, North Dakota

Subject: Review of Draft Comprehensive Conservation Plan and Environmental Assessment for the North Dakota Limited-Interest National Wildlife Refuges

This responds to your recent request for our review of the “Draft Comprehensive Conservation Plan and Environmental Assessment (Plan) for the North Dakota Limited-Interest National Wildlife Refuges (NWR). The draft Plan describes the Refuges’ vision for the future, and management goals and objectives in the areas of habitat, wildlife, cultural resources, and wildlife-dependent recreation. The final Plan will guide management of the Refuges for the next 15 years.

A list of federally endangered, threatened, and candidate species and designated critical habitat in North Dakota is enclosed, as requested. This list fulfills requirements of the Fish and Wildlife Service under Section 7 of the Endangered Species Act.

If a Federal agency authorizes, funds, or carries out a proposed action, the responsible Federal agency, or its delegated agent, is required to evaluate whether the action “may affect” listed species or proposed or designated critical habitat. If the Federal agency determines the action “may affect” listed species or proposed or designated critical habitat, then the responsible Federal agency shall request formal section 7 consultation with this office. If the evaluation shows a “no effect” determination for listed species and “no adverse modification” of proposed or designated critical habitat, further consultation is not necessary. If a private entity receives Federal funding for a construction project, or if any Federal permit is required, the Federal agency may designate the fund recipient or permittee as its agent for purposes of section 7 consultation.

A review of our records indicates that the threatened piping plover (*Charadrius melodus*) has been observed at Lake George NWR, which is one of the sites addressed in the draft Plan. A total of 2 piping plover pairs, 3 juveniles, and 1 adult were found at the site in 1993. No other observations have been recorded, likely due to lack of suitable habitat from high water conditions. Lake George NWR was not designated as piping plover critical habitat because it did not meet criteria established by the Fish and Wildlife Service (i.e., breeding piping plovers observed in more than 1 year for the period of survey record). No sites addressed in the draft Plan have been designated as piping plover critical habitat.

Confirmed sightings of the endangered whooping crane (*Grus americana*) during spring or fall migration are known from 5 sites addressed in the draft Plan, as follows:

Limited-Interest NWR	Date	Number of Adults	Number of Juveniles	Total
Dakota Lake	10-16-90	2	0	2
Lake Patricia	4-10-00	6	0	6
Pretty Rock	10-28-85	6	1	7
Pretty Rock	10-16-02	6	1	7
Pretty Rock	11-2-04	2	0	2
Sheyenne Lake	4-11-85	5	0	5
Willow Lake	4-15-98	5	0	5

Thank you for coordinating your draft Plan with our office. If additional information is required, please contact Karen Kreil of my staff or myself at 701-250-4481 or at the letterhead address.

Attachments

FEDERAL THREATENED, ENDANGERED, AND CANDIDATE SPECIES  
AND DESIGNATED CRITICAL HABITAT FOUND IN  
NORTH DAKOTA

December 2005

ENDANGERED SPECIES

Birds

Interior least tern (*Sterna antillarum*): Nests along midstream sandbars of the Missouri and Yellowstone Rivers.

Whooping crane (*Grus Americana*): Migrates through west and central counties during spring and fall. Prefers to roost on wetlands and stockdams with good visibility. Young adult summered in North Dakota in 1989, 1990, and 1993. Total population 140–150 birds.

Fish

Pallid sturgeon (*Scaphirhynchus albus*): Known only from the Missouri and Yellowstone Rivers. No reproduction has been documented in 15 years.

Mammals

Black-footed ferret (*Mustela nigripes*): Exclusively associated with prairie dog towns. No records of occurrence in recent years, although there is potential for reintroduction in the future.

Gray wolf (*Canis lupus*): Occasional visitor in North Dakota. Most frequently observed in the Turtle Mountains area.

THREATENED SPECIES

Birds

Bald eagle (*Haliaeetus leucocephalus*): Migrates spring and fall statewide but primarily along the major river courses. It concentrates along the Missouri River during winter and is known to nest in the floodplain forest.

Piping plover (*Charadrius melodus*): Nests on midstream sandbars of the Missouri and Yellowstone Rivers and along shorelines of saline wetlands. More nest in North Dakota than any other state.

Plants

W. prairie-fringed orchid (*Platanthera praeclara*): Locally common in moist swales on Sheyenne National Grasslands. Largest known U.S. population is on the Sheyenne.

## CANDIDATE SPECIES

### Invertebrates

Dakota skipper (Hesperia dacotae): Found in native prairie containing a high diversity of wildflowers and grasses. Habitat includes two prairie types: 1) low (wet) prairie dominated by bluestem grasses, wood lily, harebell, and smooth camas; 2) upland (dry) prairie on ridges and hillsides dominated by bluestem grasses, needlegrass, pale purple and upright coneflowers and blanketflower.

## DESIGNATED CRITICAL HABITAT

### Birds

Piping Plover - Alkali Lakes and Wetlands - Critical habitat includes: (1) shallow, seasonally to permanently flooded, mixosaline to hypersaline wetlands with sandy to gravelly, sparsely vegetated beaches, salt-encrusted mud flats, and/or gravelly salt flats; (2) springs and fens along edges of alkali lakes and wetlands; and (3) adjacent uplands 200 feet (61 meters) above the high water mark of the alkali lake or wetland.

Piping Plover - Missouri River - Critical habitat includes sparsely vegetated channel sandbars, sand and gravel beaches on islands, temporary pools on sandbars and islands, and the interface with the river.

Piping Plover - Lake Sakakawea and Oahe - Critical habitat includes sparsely vegetated shoreline beaches, peninsulas, islands composed of sand, gravel, or shale, and their interface with the water bodies.

County Occurrence of Endangered, Threatened and Candidate Species and Designated Critical Habitat in North Dakota March 2005 through December 2005

Species	Adams	Barnes	Benson	Billings	Bottineau	Bowman	Burke	Burleigh	Cass	Cavalier	Dickey	Divide	Dunn	Eddy	Emmons	Foster	Go Valley	Gr. Forks	Grant	Griggs	Hettinger	Kidder	Lamoure	Logan	McHenry	McIntosh	McKenzie
Interior Least Tern - E								X					X		X												X
Whooping Crane - E	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X
Black-footed Ferret - E	X			X		X							X				X		X	X							X
Pallid Sturgeon - E								X					X		X												X
Gray Wolf - E					X		X		X	X	X	X	X				X								X	X	X
Bald Eagle - T	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Piping Plover - T			X				X	X			X	X	X	X	X	X					X				X	X	X
Western Prairie Fringed Orchid - T																											
Dakota Skipper - C							X							X										X		X	X
Designated Critical Habitat																											
Piping Plover			X				X	X			X	X	X	X	X	X					X		X	X	X	X	X
E = Endangered; T = Threatened; C = Candidate																											

E = Endangered; T = Threatened; C = Candidate

County Occurrence of Endangered, Threatened and Candidate Species and Designated Critical Habitat in North Dakota March 2005 through December 2005

Species	McLean	Mercer	Morton	Mountrail	Nelson	Oliver	Pembina	Pierce	Ramsey	Ransom	Renville	Richland	Rolette	Sargent	Sheridan	Sioux	Slope	Stark	Steele	Stutsman	Towner	Trail	Walsh	Ward	Wells	Williams
Interior Least Tern - E	X	X	X	X	X											X									X	
Whooping Crane - E	X	X	X	X	X	X		X			X		X		X	X	X	X	X	X	X		X	X	X	
Black-footed Ferret - E		X	X			X										X	X	X								
Pallid Sturgeon - E	X	X	X	X		X										X									X	
Gray Wolf - E	X		X	X	X		X	X	X		X	X	X	X	X						X	X	X	X	X	
Bald Eagle - T	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Piping Plover - T	X	X	X	X	X	X	X	X			X				X	X	X			X			X	X	X	
W. P. Fringed Orchid - T									X			X														
Dakota Skipper - C									X	X		X	X	X						X	X		X			
Designated Critical Habitat																										
Piping Plover	X	X	X	X	X	X	X	X			X				X	X				X			X	X	X	
E = Endangered; T = Threatened; C = Candidate																										

E = Endangered; T = Threatened; C = Candidate



## United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Mountain-Prairie Region

IN REPLY REFER TO: MAILING ADDRESS:  
Tewaukon National Wildlife Refuge  
9754 143 ½ Ave. SE  
Cayuga, ND 58013

January 11, 2006

To: Jeffrey Towner, Field Supervisor, Ecological Services  
Bismarck, North Dakota

From: Laura King, Planning Team Leader  
Cayuga, North Dakota

Subject: Section 7 consultation for the North Dakota Limited-interest National Wildlife Refuge Comprehensive Conservation Plan

This memo is to request your concurrence of a 'no effect' determination for the actions proposed in the North Dakota Limited-interest National Wildlife Refuges Comprehensive Conservation Plan (CCP).

Based on the information provided by your office, we don't feel that any action in this plan will affect endangered species or proposed or designated critical habitat. According to Service data, there is no suitable habitat on any of these 39 refuges for such federally listed species such as pallid sturgeon, black-footed ferret, or least tern. Our refuges located near the Turtle Mountain area, an area known for wolf dispersal, do not have the habitat needed to sustain wolf populations. Bald eagles may pass through these refuges during migration, but no refuge contains significant riparian habitat, the preferred habitat of bald eagles. The Dakota skipper is a candidate species known to occur in North Dakota; however there are no records of Dakota skipper on lands included in the ND Limited-interest CCP. Regardless, the activities proposed in this plan would not impact any of these species but rather are generally consistent with recovery of these candidate, threatened, and endangered animals.

Piping plovers were identified on Lake George NWR. However, this occurrence was one year only and therefore is not designated as piping plover critical habitat. Even though the goals in this plan support piping plover recovery, the refuges will consult with Ecological Services on any future management at this site that may affect the piping plover.

Migrating whooping cranes have been identified at five of the refuges in this project. However, these occurrences are sporadic with either single sightings or with two to seven years between occurrences. Although the actions proposed in this plan support whooping crane recovery, the

refuges will consult with Ecological Services on any future management actions that may affect whooping cranes.

We appreciated your assistance in completing this consultation. If additional information is needed, please contact me at Tewaukon NWR at 701-724-3598 (ext. \*814).



## United States Department of the Interior

### FISH AND WILDLIFE SERVICE

Ecological Services  
3425 Miriam Avenue  
Bismarck, North Dakota 58501



JAN 26 2006

#### MEMORANDUM

To: Planning Team Leader, Tewaukon NWR  
Cayuga, North Dakota

From: *Jeffrey K. Townner*  
Field Supervisor, Ecological Services  
Bismarck, North Dakota

Subject: Intra-Service Section 7 Consultation - North Dakota Limited-interest National Wildlife  
Refuge Comprehensive Conservation Plan

I am writing in response to your January 11, 2006, request for our concurrence with your threatened and endangered species effect determination relative to the subject Comprehensive Conservation Plan. We have reviewed the information provided and concur with your determination of no effect for whooping crane, gray wolf, bald eagle, Dakota skipper, piping plover, and piping plover critical habitat. If you have any questions regarding this informal consultation, please contact Karen Kreil of my staff at 701-355-8506, or contact me directly at (701)250-4402, extension 508, or at the letterhead address.



# Appendix G. Divestiture Model

## I. Introduction

The divestiture model represents a set of criteria for measuring the value of a refuge. Designed as a pre-planning tool, the model allows planners and refuge managers to determine whether or not a refuge should be considered for divestiture. If the model indicates that a refuge should be considered for divestiture, the process and consequences of divestiture will be studied further during the CCP process. Six of the 39 refuges were recommended for divestiture following these criteria.

## II. The Divestiture Model – Criteria and Rules

Region 6's divestiture model was developed during a two day workshop held December 14–15, 2004 by a team of refuge managers, biologists, planner, and the Regional Office directorate. The purpose of the workshop was to standardize policy in Region 6 for identifying which refuges to consider for divestiture. The Service recognizes that this is very significant decision and that divestiture will always be the exception and not the rule. However, in a 100 year history of establishing refuges, there may be instances, such as in the case of the North Dakota Limited-interest Program, where refuges no longer support the mission and goals of the National Wildlife Refuge System. These refuges may be draining resources from those areas with greater potential.

The model consists of a set of eight questions that must be addressed when considering a refuge for divestiture. The questions were prioritized as primary and secondary criteria for evaluation.

### A. Primary Criteria

#### 1. Does the refuge achieve one or more of the NWRS goals?

*Explanation:* Look beyond the purpose to see if the refuge is meeting NWRS goals. Refuge purpose is forever, but may become obsolete over time (e.g. recovery of T&E species). Obsolete purpose doesn't necessarily mean we should get rid of the refuge.

#### 2. Does the refuge meet its purpose (fulfill the refuge's intent and statutory purpose)?

*Explanation:* Try to understand the intent of decision makers at the time the refuge was established.

#### 3. Does the refuge provide substantial support for migratory bird species, provide important sheltering habitat for threatened and endangered species, or support species identified in authorizing legislation?

*Explanation:* The planning team that answers this question must define 'substantial.' Refuge context is the key consideration. Substantial is relative to species, location, region etc.

*Example:* Flocks of migratory birds (thousands) would be considered substantial.

#### 4A. Does the refuge have biological integrity; if not, is it feasible to restore the biological integrity of the converted or degraded habitat?

*Explanation:* The presence of native habitat is not enough to meet NWRS standard; USFWS is not trying to save every remnant species. Identify what has changed from presettlement habitat conditions. Consider the contribution to regional biodiversity.

#### 4B. Does the Service have or can it reasonably acquire the right to restore the habitat?

*Biological integrity* = native habitat and contribution to regional biodiversity.

*Degraded* = Native vegetation exists but the value has been reduced due to nonnatives and loss of ecological functions.

\*In order to answer “yes” on biological integrity need to answer yes on both “4A” and “4B”

**5. Does it contribute to landscape conservation, provide a stepping stone for migratory birds or serve as a unique habitat patch important to the conservation of a Trust species?**

## **B. Secondary Criteria**

**6. Politics/Community – Is there such significant community interest in and support for the refuge that divestiture would result in unacceptable long-term public relations?**

*Explanation:* Environmental education is a means to an end; not a purpose in itself; conservation must be broader than refuge. Public Use should be considered as criteria only when public use is legislated in the purpose.

**7. Jurisdiction – Do we have or can we acquire the jurisdiction to meet refuge’s purpose, NWRS mission and goals, and prevent incompatible uses?**

**8. Other Land Manager - Can someone else achieve most or all of the purposes of the refuge without the Service having to incurring costs?**

*(This question is very relative to these limited-interest refuges where the Service in essence remains in name only, e.g. Sheyenne Lake NWR. Three of the six refuges proposed for divestiture are either owned and/or being managed by the state)*

## **C. Additional Considerations**

**9. Cost/Liability – Cost will never be a primary or secondary factor for divesting a refuge; cost (in itself) should not be a criterion for divesting land.**

- If cost is a consideration for divestiture, it is because some other factor is driving the decision.
- Treat cost as a piece of information that can be used to justify decision
- Liability is an additive to a decision to either keep or divest a refuge, but it is not a primary or secondary decision making criteria.

**D. Rules – The following five rules organize the responses to the above criteria questions and determine whether or not to consider a refuge for divestiture.**

**Rule 1:** IF the refuge cannot meet one or more NWRS goals, THEN it should be considered for divestiture.

**Rule 2:** IF the answers to questions 1–4 are as follows,

1. Yes – Meets a NWRS goal, but only the education goal
2. No – Does not meet refuge purpose
3. No – Does not substantially support trust species
4. No – Does not possess biological integrity

THEN the refuge should be considered for divestiture.

**Rule 3:** IF the answers to questions 1–5 are as follows,

1. Yes – Meets a NWRS goal, but only the education goal
2. Yes - Purpose
3. No – Trust Species
4. No – Biological Integrity
5. No – Connectivity

THEN the refuge should be considered for divestiture.

**Rule 4:** IF the answers to questions 1–6 are as follows,

1. Yes – Goal
2. Maybe – Purpose
3. No – Trust Species
4. Yes – Biological Integrity
5. No – Connectivity

6. Yes – Jurisdiction

THEN keep the refuge (positive rule).

**Rule 5:** IF the answers to questions 1–3 are as follows,

1. Yes – Goal

2. Yes – Purpose

3. Yes – Trust Species

THEN keep the refuge (positive rule).